THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.24155 of 1998
Date: 23-07-2007

Between:
The Depot Manager,
Zahirabad Depot, APSRTC and others

Petitioners

And

K.Prabhu and another

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.24155 of 1998

ORDER:

1. The Andhra Pradesh State Road Transport Corporation (for short 'the APSRTC') has preferred this writ petition calling in question the Award passed by the Labour Court-II,Hyderabad, in I.D.No.42 of 1994 instituted by the first respondent-workman, who was working with it as a Conductor.

2. The bus conducted by the first respondent-workman had been subjected to inspection by the Ticket Travelling Inspectors/Checking Officials of the APSRTC who found that some of the passengers who boarded the bus have not yet been issued the tickets and that at the time of check, four passengers were alighting from the bus, to whom the tickets of the denomination of Rs.1.50 have not been issued. Therefore, the first respondent-conductor has been proceeded against as a measure of discipline for having violated the standing instructions to "issue and start" and thus conduct the bus only after issuing the tickets to all the passengers in the bus. Another allegation levelled against the first respondent is that though he has collected the fare of Rs.6/- from the four passengers he had not issued tickets to them and he has only taken out the tickets of the denomination of Rs.1.50 from the tray and he was about to punch the same, the checking officials have seized the same from the first respondent -conductor. All through, the explanation offered by the first respondent-workman is that there is a sick passenger who is transported for medical attention

and consequently at the request of the fellow passengers the bus has been started though tickets have not been issued to all the passengers and therefore his conduct of allowing the bus to commence it's onward journey in spite of his not issuing the tickets is bonafide and genuine. Therefore, it should not have been alleged as a misconduct against the first respondent-workman. The further explanation offered by the first respondent was that he had already issued five tickets of Rs.1.50 denomination to five passengers and so far as the four passengers who have just alighted the bus at the point of check, he was about to issue them tickets of Rs.1.50 denomination and since they were alighting they have not collected the tickets from the first respondent-workman. But nonetheless the Enquiry Officer did not find the explanation offered by the first respondent-workman as satisfactory and consequently he has recorded a finding that he is guilty of charges levelled against him. Based upon this finding, the first respondent-workman had been removed from service for the proven misconduct through the orders passed by the Depot Manager, Zahirabad Depot on 01-06-1992.

3. The Labour Court after perusing the entire material, had considered the explanation offered by the first respondent-workman as spontaneous and bonafide. Therefore, it had exercised the discretion available with it under Section 11-A of the Industrial Disputes Act, 1947. In terms of the power available with it, the Labour Court had substituted the punishment with denial of back wages to the extent of 75%. It had therefore passed an Award setting aside the order of removal and directing the petitioners to reinstate the first respondent-workman with all attendant benefits and awarded 25% of the back wages for the period he was kept out of service.

4. Heard the learned standing counsel for the APSRTC and

Sri Choudhary, the learned counsel for the first respondent-workman.

5. Though the learned standing counsel made a strenuous effort to demonstrate that the exercise of discretion carried out by the Labour Court is improper, he could not deny the fact that there is a sick passenger who is being transported in the bus to enable him to receive medical attention at Zahirabad and therefore, compelled by such reasons the first respondent-conductor has allowed the journey to commence without completing the task of issuing tickets. In such circumstances, therefore, the conduct of the first respondent-workman in allowing the bus to commence it's journey without his completely issuing the tickets to all the passengers cannot be faulted. After all, the circumstances of urgency of securing medical attention to one of the passengers is equally important duty to be performed by a conductor of the bus. Therefore, no exception need be taken to the conduct of the first respondent in allowing the bus to commence it's onward journey. Similarly, when it is viewed that out of 80 passengers found in the bus 76 of them have been issued tickets and only four of them have not been issued tickets, and when it is also noticed as a fact that the first respondent-workman had already taken out four tickets of the denomination of Rs.1.50 from the tray and he was also about to punch them at the time of check itself, reveals that bonafide attempt has been made by the first respondent-conductor to issue the tickets even to those four passengers who are found alighting without collecting their tickets. Therefore, the explanation offered by the first respondent is not only being spontaneous but appears to be fairly accurate and reasonable. In these set of circumstances, the Labour Court had adequately balanced the interests of both sides. The Corporation had not been mulcted with the responsibility of paying entire back wages and it had only been

ordered to pay 25% of the back wages. Therefore, I do not find any jurisdictional error on the part of the Labour Court in substituting the punishment and by setting aside the order of removal passed by the Depot Manager against the first respondent-workman. I find no reason to interfere with the Award passed by the Labour Court and accordingly the writ petition is dismissed, but however, without costs.

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NOOTY RAMAMOHANA RAO,J

23-07-2007
Stp